

Appl. No. 10/782,228
Atty. Docket No.: 2002B107D
Amdt. dated March 8, 2007
Response to OA of January 3, 2007

RECEIVED
CENTRAL FAX CENTER

MAR 08 2007

REMARKS/ARGUMENTS

This reply is submitted in response to the Final Office Action dated January 3, 2007.

Claims 6-15 and 17-170 are pending.

Claims 6-15 and 17-170 are rejected.

Claims 6-9, 77, and 113 are amended.

Claims 1-5, 16, 47, and 149-150 are canceled.

Support for the claim amendments can be found page 8, line 11.

Double Patenting Rejections

Regarding the double patenting rejections, Applicants respectfully submit that, due to the still-changeable nature of the claims, these rejections should be held in abeyance, e.g., until such point as the pending claims are allowable but for such double patenting rejections. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully submit that these rejections are not ripe for resolution until there are otherwise allowable claims in the instant case and allowed or issued claims in the cases to which terminal disclaimers are sought. Indeed, Applicants respectfully note that the M.P.E.P. instructs the Examiner to withdraw a provisional double patenting rejection in the earlier filed of two pending applications and to allow that earlier filed application to issue as a patent without a terminal disclaimer. *See* M.P.E.P 804(I)(B)(1).

35 USC §112

Claims 6-15, 17-46, 48-148, and 151-153 are rejected under 35 U.S.C. §112, first paragraph for failing to comply with the written description requirement. The phrase "elastomers are substantially absent from the composition" is supported at page 52, lines 13-15 of the specification.

Appl. No. 10/782,228
Atty. Docket No.: 2002B107D
Amdt. dated March 8, 2007
Response to OA of January 3, 2007

Rejections under 35 USC § 102(b)

Claims 6-15, 17-46, 48-148, and 151-153 are rejected under 35 USC § 102(b) or §103(a) as being anticipated by US 5,240,966 (Iwasaki). The Office suggests that Iwasaki discloses a composition containing polypropylene and Lucant HC-10. Applicant would like to direct the Office to Col. 9, Lines 55-58 of Iwasaki. Iwasaki filters off the excess oily pigment dispersion and then freeze-dries the remaining residue. It is the Applicant's position that this process is intended to remove all liquids from the polypropylene to leave the stated granular colorant.

The vapor pressure of a solid (the C.I. Pigment Red 48-2) is 10-15 orders of magnitude less than the vapor pressure of a liquid (see attached EPA document on CI Pigment Red 48 on page 9 showing a vapor pressure of 2.9×10^{-19} mmHg). It is the Applicant's position that Iwasaki intends to remove all of the Lucant HC-10, which would be possible given the magnitude of difference between the vapor pressure of a liquid and the vapor pressure of a solid. Because Iwasaki intends to remove all liquids from the polypropylene, Applicant believes that the Office cannot argue that it would have been impossible to actually remove all of the Lucant HC-10. Because the specification does not teach or show any remaining Lucant HC-10, the Office may not simply infer the presence of remaining compounds.

While it is the Applicant's position that Iwasaki does not teach the presence of any Lucant HC-10, even assuming that no Lucant HC-10 is removed during the freeze drying process, Iwasaki does not teach the presence of 1 wt% to 50 wt% based upon the weight of the polyolefin and the non-functionalized plasticizer which is required in a number of the currently pending claims.

Applicant is going to walk through a case where no Lucant HC-10 is removed in the freeze drying process (even though Applicant believes that all of the Lucant HC-10 is removed) to show that it would still not teach 1-50 wt % of Lucant HC-10 in a melt-blended polymer. Example 8 takes 500 g of porous polypropylene and mixes the polypropylene with 1000 g of oily pigment dispersion, which contains 150 g of Lucant HC-10, 200 g of dye, and 650 g of paraxylene. Since 640 g of granular colorant is

Appl. No. 10/782,228
Atty. Docket No.: 2002B107D
Amdt. dated March 8, 2007
Response to OA of January 3, 2007

recovered after freeze drying, and it is safe to assume no polypropylene is removed in this process, there is 140 g of some combination of Lucant HC-10, dye, and paraxylene remaining. Assuming conditions that would be least favorable to the Applicant, i.e., that only paraxylene was removed during freeze drying and that the ratio of Lucant HC-10 to dye remains constant in the polypropylene, there would be at most 60 g of Lucant HC-10 remaining in 640 g of the granular colorant (Applicant believes there will actually be less Lucant HC-10 because some or all of the Lucant HC-10 is removed during the freeze drying process).

Experimental example 1 shows the step of blending the granular colorant with additional polypropylene; 5 parts of the granular colorant is blended with polypropylene pellets. While the example does not specify the amount of polypropylene pellets used, Applicant assumes for the purposes of this calculation that 100 parts of polypropylene pellets were used (this calculation is consistent with the language used throughout the specification; see Col. 4, line 68; Col. 5, line 47; Col. 6, line 18 and line 24). This would result in at most 0.47 g of Lucant HC-10 [$5 \cdot (60/640)$] in 105 g of the blended product. So even assuming conditions that would be least favorable to the Applicant, there would still only be at most 0.45 wt% Lucant HC-10 based upon the weight of Lucant HC-10 and the total amount of polypropylene in the blended product.

Further, Claims 10, 11, and 15 have specific limitations that are not present in Lucant HC-10. For example, Claim 10 is limited to mineral oils; Claim 11 requires a mixture of branched and normal paraffins having from 6 to 50 carbon atoms and a ratio of branch paraffin to n-paraffin ratio ranging from 0.5:1 to 9:1; and Claim 15 requires having less than 10 % sidechains having 4 or more carbons, and having at least 1 or 2 carbon branches present at 15 weight % or more, and where the NFP comprises less than 2 weight % cyclic paraffins.

RECEIVED
CENTRAL FAX CENTER

MAR 08 2007

Appl. No. 10/782,228
Atty. Docket No.: 2002B107D
Amdt. dated March 8, 2007
Response to OA of January 3, 2007

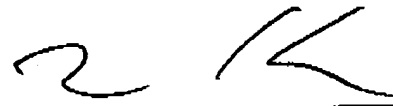
CONCLUSION

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Reconsideration and allowance is respectfully requested. Applicant invites the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account number 05-1712. Moreover, if the deposit account contains insufficient funds, the Commissioner is hereby invited to contact Applicants' undersigned representative to arrange payment.

Respectfully submitted,

Date: 3/8/07



Michael S. Kerns
Attorney for Applicants
Registration Number 51,233

Post Office Address (to which correspondence is to be sent):
ExxonMobil Chemical Company
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Telephone No. (281) 834-1441
Facsimile No. (281) 834-2495